

Attorney Docket No.: RTS-0345
Inventors: Borchers and Dobie
Serial No.: 10/007,010
Filing Date: December 4, 2001
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REMARKS

Claims 1, 2, 4-10 and 12-15 are pending in this application. The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 and 37 C.F.R. §1.141.

The Examiner suggests that the antisense sequences in claim 1 are targeted to and modulate the expression of hematopoietic cell protein tyrosine kinase of SEQ ID NO:3 and SEQ ID NO:10 and that the compounds are deemed to be structurally independent. The Examiner further suggests that a search of more than one of the preferred target region sequences recited in claim 1 presents an undue burden on the Patent Office due to the nature of the search. Applicants respectfully traverse this restriction requirement.

MPEP 803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

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As acknowledged by the Examiner, all of the identified compounds of claim 1 share the ability to modulate a common structure, namely hematopoietic cell protein tyrosine kinase. Thus, Applicants respectfully disagree with the Examiner's suggestion that the sequences are distinct as being novel and unobvious over each other as required by MPEP § 802.01. Further, Applicants disagree that any undue burden is presented to the Patent Office, as a search initiated for hematopoietic cell protein tyrosine kinase, would reveal art relevant to both of the claimed sequences. Applicants respectfully request reconsideration and withdrawal of this restriction requirement.

However, in an earnest effort to be completely responsive, Applicants hereby elect SEQ ID NO: 3 with traverse.

Respectfully submitted,

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